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OFFICE OF PETITIONS

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In re Patent No. 7,763,716 :
Issued: July 27, 2010 :
Application No. 10/557,351 :
Filed: November 18, 2005 :
Attorney Docket No. 64476(46342) :

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed September 27, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 761 to 863 days.

The request for review of the patent term adjustment is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On July 27, 2010, the above-identified application matured into U.S. Patent No. 7,763,716 with a revised patent term adjustment of 761 days. On September 27, 2010, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 863 days.

Applicants argue that the 35 U.S.C. 371 completion date for this application is November 18, 2005, rather than November 28, 2005, as indicated in the Patent Term Adjustment History obtained from PAIR and as a result the patent is entitled to 10 days of additional patent term adjustment. Applicants are advised that in this instance, the national stage commencement date is November 28, 2005 (not November 18, 2005, the date used by patentees for this calculation). The priority date of this application is May 28, 2003. As a request under 35 U.S.C. 371(f) for early processing was not expressly made, the completion date occurred at the 30-month commencement date.

Applicants argue further that a period of 92 days should not be charged Applicant for the filing of the Supplemental Application Data Sheet on April 27, 2010 which was filed to change an inventor's address. Patentee argues that "According to Clarification of 37 C.F.R. 1.704(c)(10) (1247 Off. Gaz. Pat. Office 111 ; June 26, 2001), the submission of

a paper to "Change of Address" shall not be considered a failure from Applicants to engage in reasonable efforts to conclude processing or examination of an application (see MPEP 2732). Applicants contend that the Supplemental ADS was merely a paper to "Change of Address". As such, Applicants are entitled to the 92 days of PTA pursuant to 37 C.F.R. 1.704(c)(10)."

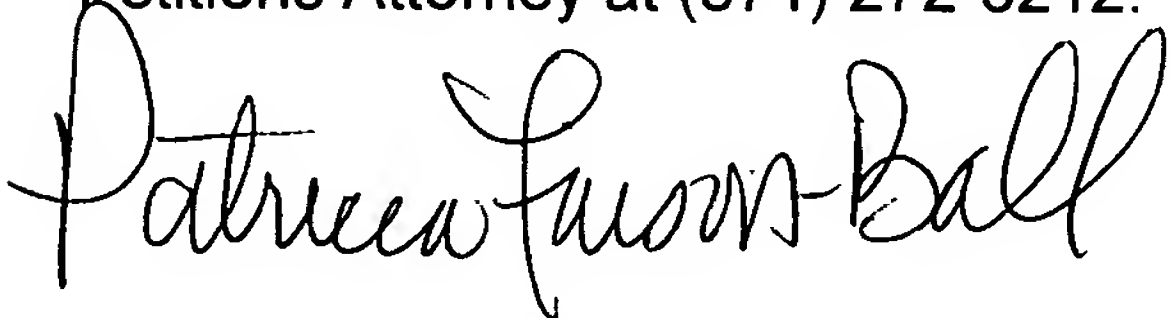
Patentee's argument has been considered but is not persuasive. The change of address was filed after the mailing of the Notice of Allowance and thus is subject to 37 C.F.R. § 1.704(c)(10). Patentee is advised that MPEP 2732 applies to changes to correspondence addresses, not changes to inventor information.

As such, the patent term adjustment is 761 days as previously indicated. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with large, connected letters.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions